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May 18, 2018

VIA ECF

Honorable Joanna Seybert
United States District Judge
United States District Court for the Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: United States v. Nassau County, et al.
Case No.: 77-cv-1881

Dear Judge Seybert:

As counsel for Defendant Nassau County (the “County”) in the above-referenced action, we write to respectfully request that this Court grant an Order extending the time in which the County may use both the Police Officer List No. 2000 (“Police Officer Current List”) and the Sergeant Promotional List No. 3015 (“Sergeant Current List”) (collectively, the “Current Lists”) by a period of six (6) months or until new lists are established, whichever occurs first. The Police Officer Current list is set to expire on June 24, 2018. The Sergeant Current List is set to expire on June 12, 2018.

This is the County’s first request for an extension of the Current Lists. The County has provided notice of the County’s intent to make this application to the United States Department of Justice, the Nassau County Superior Officers’ Association and the Police Benevolent Association of Nassau County, Inc., all of whom have advised that they do not object to the County’s request.

Police Officer Current List

The County administered an entrance examination for the rank of Police Officer on January 16, 2018. While the County believed that this would provide adequate time for a new Police Officer List to be generated in advance of the Current List’s June 24, 2018 deadline, as of the date of this application, AON Consulting (the company with whom the County contracts to prepare and validate the Police Officer entrance examination) has recently completed its scoring and validation review. The examination’s results need to be reviewed and approved by the



Department of Justice prior to being certified by the Nassau County Civil Service Commission. Then the County will begin with physical agility exams of the applicants and conduct the background investigations. Afterwards it can "hire" and offer conditional offers of employment from the new list.

While the County has been proceeding as expeditiously as possible, we do not expect the above-detailed process to be complete prior to the June 24, 2018 expiration of the Police Officer Current List. As the County believes that not having an active, current list from which to hire new Police Officers would pose a threat to public safety, we respectfully request that the Police Officer Current List be extended for six (6) months, until December 24, 2018, or the date on which a new list is generated, whichever occurs first.

Sergeant Current List

The County administered a promotional examination for the rank of Sergeant on June 3, 2017. While the County believed this would provide sufficient time to generate a new Sergeant List before the Current List's expiration on June 12, 2018, AON recently completed its scoring and validation review of the examination results. Nassau County Civil Service has to still process scoring and certification and generation of the new list. While we anticipate this process will soon be completed, it is possible that it will not be done prior to the June 12, 2018 expiration of the Sergeant Current List. The County believes that not having an active, current list from which to promote new Sergeants would pose a threat to public safety, and thus respectfully requests that the Sergeant Current List be extended for six (6) months, until December 12, 2018, or the date on which a new list is generated, whichever occurs first.

* * *

We appreciate the Court's consideration of this request. A proposed Order is attached for Your Honor's consideration. Should the Court require any additional information, please do not hesitate to contact the undersigned.

Respectfully yours,

JACKSON LEWIS P.C.

A handwritten signature in blue ink, appearing to read "Marc S. Wenger".

Marc S. Wenger

Attachment

cc: All counsel of record (via ECF)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

Plaintiff,

ORDER

-against-

77-CV-1881 (JS)

NASSAU COUNTY, et al.

Defendants.
-----X

On April 21, 1982, the Court approved and entered a Consent Decree (the "1982 Consent Decree") in United States v. Nassau County, et al., 77 CV 1881, agreed and consented to by all parties in this action; plaintiff the United States of America (the "United States"), defendant Nassau County, defendant Nassau County Commissioner of Police, defendants Nassau County Civil Service Commissioner (collectively, the "Nassau County defendants"), defendant Police Benevolent Association of Nassau County, Inc. (the "PBA") and defendant-in-intervention Superior Officers Association of Nassau County, Inc. (the "SOA").

The parties currently remain under the Court's jurisdiction as a result of the 1982 Consent Decree, which was entered by Judge George C. Pratt. The 1982 Consent Decree was entered to ensure "that Blacks, Hispanics and females are considered for employment by Nassau County in the [Department] on an equal basis with white males" (1982 Consent Decree ¶ 1).

Pursuant to N.Y. Civil Service Law § 56, and the terms of the Consent Decree, the current list for Police Officer was established on June 25, 2014, by the Nassau County Civil Service Commission.

Pursuant to N.Y. Civil Service Law § 56, and the terms of the Consent Decree, the current list for Sergeant was established on June 13, 2014, by the Nassau County Civil Service Commission.

Under New York law, a municipal hiring authority may use a competitive civil service examination for no more than four years. N.Y. Civil Service Law § 56 subd. 2.

The Court finds that good cause has been shown for this extension and that it is consistent with the provisions and purposes of the Consent Decree.

ACCORDINGLY, IT IS HEREBY ORDERED:

Nassau County, the Nassau County Civil Service Commission, the Nassau County Commissioner of Police, the Nassau County Police Department, may continue to use the Current List for Police Officer in accordance with the provisions of the Consent Decree until the earlier of (1) December 24, 2018, or (2) the establishment of a new eligible list of candidates for Police Officer, whichever occurs first.

Nassau County, the Nassau County Civil Service Commission, the Nassau County Commissioner of Police, the Nassau County Police Department, may continue to use the Current List for Sergeant in accordance with the provisions of the Consent Decree until the earlier of (1) December 12, 2018, or (2) the establishment of a new eligible list of candidates for Police Officer, whichever occurs first.

ENTERED this _____ day of April 2018 in Central Islip, New York.

JOANNA SEYBERT, U.S.D.J